



Overutilization, Abuse, and Fraud Within Cardiac Departments

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Speaker Introductions

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The High Cost of U.S. Health Care

- The United States spends substantially more per person on health care than any other country
 - Health outcomes are the same as or worse than those in other countries
- Overutilization
 - More office visits, hospitalizations, tests, and procedures
 - More costly specialists, tests, procedures, and prescriptions than are appropriate or medically necessary

Emanuel et al. *JAMA*. 2008;299:2789-2791.

Defining Appropriateness

(2009 Appropriateness Criteria for Coronary Revascularization)

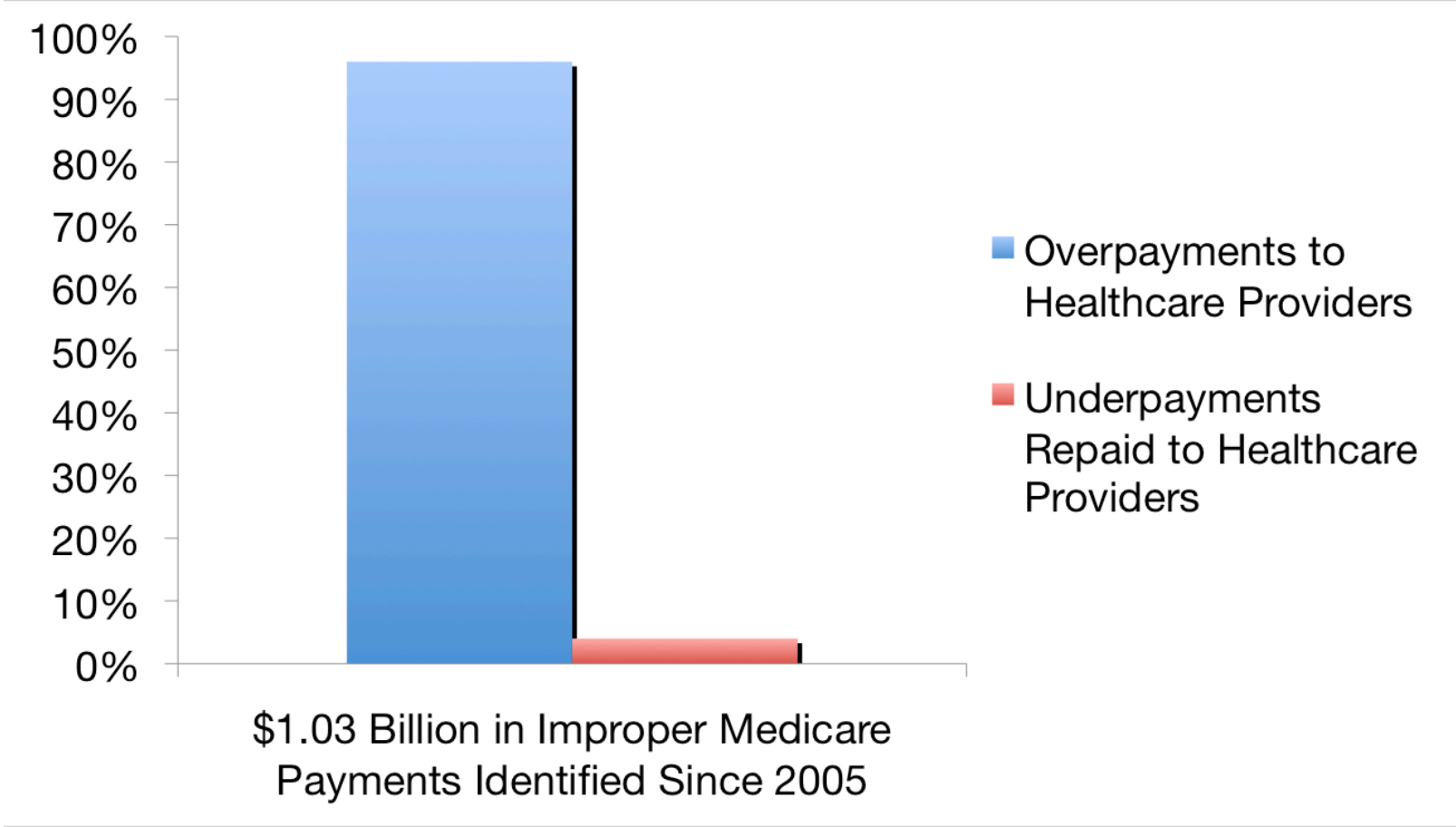
- Benchmark physicians to their peer group
- Account for the different mix of cases for each physician and look at the clinical cohorts
- Make sure that each physician is treating patients appropriately
- Interventional cardiologists should practice accordingly with evidence-based guidelines



Government Taking Aggressive Measures to Promote Evidence-Based Health Care

- The Centers for Medicare and Medicaid Services (CMS) has expanded its use of Recovery Audit Contractors (RACs) to recover inappropriate payments for Medicare services
- Medicaid Integrity Contractor (MIC) auditors and federal regulators are also actively auditing hospitals to make sure they are complying with new rules and regulations
- Audits are widespread throughout the United States

The CMS RAC Program



Blumen et al. *Physician Executive Journal*. September-October 2010:50-55.

U.S. Department of Health and Human Services Office of Inspector General

- Most common Medicare reimbursement violation: failure to comply with medical necessity requirements
- High level of scrutiny for most lucrative procedures
 - Medical necessity of interventional cardiology procedures has recently received national attention



Example: Louisiana Cardiologist Sentenced to 10 Years in Federal Prison

- In 2006, a Louisiana hospital paid:
 - \$3.8 million to settle a U.S. Department of Justice false-claims lawsuit
 - An additional \$7.4 million to settle a class-action lawsuit brought by former patients of one of its interventional cardiologists
- In 2009, the cardiologist was convicted on 51 counts of billing private and government health insurers for unnecessary medical procedures
 - Between 1999 and 2003, he billed Medicare and private insurance companies >\$3 million, allowing him to personally pocket >\$500,000

Example: Maryland Hospital Pays \$22 Million to Settle False Claims Allegations

- Hospital charged of paying illegal kickbacks to a cardiologist's practice in exchange for patient referrals
- Reports indicate that the cardiologist implanted more than 500 stents that were medically unnecessary
 - Medicare paid \$3.8 million of the \$6.6 million charge for these procedures
- Although it did not admit any liability, the hospital reached an agreement in order to avoid the expense and uncertainty of litigation

Example: Another Maryland Cardiologist Indicted on Fraud Charges

- Accused of:
 - Placing hundreds of stents that were not medically necessary
 - Carrying out unnecessary diagnostic procedures worth millions in combined Medicare payments
- Charged with:
 - One count of fraud
 - Six counts of making false statements to insurers and patients
- Faces 40 years in prison if convicted on all counts

CMS Definitions of Fraud and Abuse

- **Fraud**

- Involves obtaining something of value unlawfully, through willful misrepresentation, false statements, kickbacks, or collusion

- **Abuse**

- Refers to violations of agency regulations that impair the effective and efficient administration of government healthcare programs; practices that, either directly or indirectly, result in unnecessary costs to Medicare and other federal healthcare programs

What Distinguishes Abuse From Fraud

- The inability to establish that abuse acts were committed knowingly, willfully, and intentionally
- Practices considered routine *overpayment* matters one day can become *abuse* the next, possibly even turning to *fraud*



Why Are Cardiac Procedures Being Targeted?

- Average length of stay has gradually decreased
- Auditors believe that procedures can routinely be performed in outpatient setting
- Hospital admissions for these procedures raise a red flag for auditors



Importance of Ongoing Peer Review

- Data review of aggregate performance data, including comparison against industry/regional benchmarks and established standards
 - Recognizes opportunities for improvement
 - Identifies trends and patterns in professional practice
- Concurrent and retrospective review of a physician's performance by peers
- Case review of singular event or a sampling of cases
 - For a single practitioner or practice group
- Must be completed within reasonable time frames to ensure that issues are addressed promptly

Challenges Associated With Internal Peer Review

- Conflicts of interest
- Organizational sensitivities
- Time limitations on in-house physicians
- Peer review mostly voluntary – case reviews often get delayed
- Infrastructure to support effective peer review:
 - Medical Staff By-laws
 - Policies & procedures
 - Staff support
 - Training and expertise

What Happens When Internal Peer Review Fails: **A California Hospital Pays the Price**

- Over a 10-year period, cardiologists and cardiac surgeons performed unnecessary procedures and operations on >600 patients
- The hospital continued to be re-certified and re-accredited despite records showing that peer review was not being performed
- Physicians and hospital officials were stopped only after discovery by the FBI
- The hospital paid about \$500 million in combined negligence awards
- The valuation and reputation of the hospital was damaged and has never recovered

Why External Peer Review?

- Supplements internal peer review activities
- Reduces medical errors
 - Objective evaluations performed in a non-punitive educational context supports a culture of continuous improvement
- Increases transparency and accountability
 - Physicians know that their work will be objectively evaluated at regular intervals
- Improves quality of care and patient safety
- Provides physician resources and expertise necessary to conduct timely performance analysis

The Case for Ongoing External Peer Review

- Provides ongoing monitoring and identification of potential overutilization
- Allows hospitals to take remedial action
 - Tightening of clinical criteria
 - Providing additional training to physicians
 - Taking other corrective measures that protect all parties
- Helps hospitals to discover, highlight, and deal with physician performance & overutilization issues quickly and efficiently before they turn into claims
 - Internal peer review often only looks at sentinel events

CardioAudit: A Proactive Solution

- An external peer review program that systematically evaluates specific cardiac procedures to determine:
 - Medical necessity in accordance with guidelines set forth by professional and medical societies
 - Compliance with Medicare National Coverage Determinations (NCDs)
 - Necessity outside of NCD language
- Helps hospital administrators identify and correct any potential problems before they occur
- Utilizes a scoring system that allows for benchmarking and data gathering for similar procedures and physicians in other areas/hospitals

Procedures for CardioAudit Review

- Percutaneous coronary interventions (PCI)
- Peripheral vascular interventions
- Carotid artery interventions
- Coronary artery bypass graft (CABG) and valve surgery
- Electrophysiology procedures: implantable cardioverter defibrillators (ICDs), biventricular pacemakers, single and dual chamber pacemakers, radiofrequency ablations

CardioAudit: A Cost-Effective Solution

- Identifies overutilization for remediation
- Reduces risk of False Claims Act liability or loss of revenue through audits
- Improves quality of patient care
- Improves compliance with evidence-based guidelines
- Overcomes potential barriers to effective peer review
 - Conflicts of interest, uncompensated time, time limitations, sham reviews, economic profiling
- Demonstrates commitment to patient safety

PeerScore FPPE: The Role of External Peer Review in Audits

- Preparation is one of the key components of developing an audit response strategy
- Audited hospitals are required to undertake in-depth focused reviews
 - Serves to overcome conflicts of interest and lack of accountability
- How does PeerScore FPPE differ from CardioAudit?
 - PeerScore reviews are in-depth narrative reviews that focus on breaking down a situation that has already occurred

The PeerScore FPPE Review Process

- Identifies appropriate sampling size that is statistically valid based on the number of physicians and procedures that are performed at the hospital
- All cases are reviewed by leading board-certified cardiologists who are in active practice
 - Ensures that cardiovascular procedures are medically indicated according to the latest clinical criteria
- Reviews are conducted by physicians outside the influence of the hospital
 - Allows unbiased and medically defensible evaluations
- AllMed's medical team can provide expert witness services if needed

PeerScore FPPE and CardioAudit Services

CardioAudit^(sm)

- A reactive approach that looks only at sentinel events
- Helps hospitals prepare for audits

PeerScore FPPE^(sm)

Focused Narrative Review

- A proactive approach to ensure that cardiac procedures are medically indicated
- Helps to identify and correct any potential problems before they occur

Both programs are designed to help hospitals meet the challenges of Medicare and Medicaid audits and prevent potential United States Department of Justice Investigations

Questions and Answers

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